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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
(Western Division)**

BOARD OF TRUSTEES OF THE) CASE NO. CV-12-09106 DSF(AJWx)
SOUTHERN CALIFORNIA FLOOR) [Consolidated with related case no.
COVERING PENSION TRUST FUND,) CV13-01545 DSF(AJWx)]
SOUTHERN CALIFORNIA FLOOR)

COVERING HEALTH AND)
WELFARE TRUST FUND,)
SOUTHERN CALIFORNIA FLOOR)
COVERING APPRENTICESHIP AND)
TRAINING TRUST FUND,)
SOUTHERN CALIFORNIA FLOOR)
COVERING VACATION AND)
HOLIDAY TRUST FUND,)
CONTRACT ADMINISTRATION)
TRUST FUND, and THE PAINTERS)
AND ALLIED TRADES LABOR)
MANAGEMENT COOPERATION)
FUND, and RESILIENT FLOOR AND)
DECORATIVE COVERING LOCAL)
UNION NO. 1247,)

JUDGMENT

Plaintiffs,

v.

EZRA SAMPSON ORTEGA, an
individual, and doing business as THE
GENERAL FLOOR PREP &
INSTALLATION COMPANY, a
partnership; and THE GENERAL
FLOOR PREP & INSTALLATION
COMPANY, a partnership, DOES 1
through 10, inclusive,

Defendants.

And related consolidated case.

1 On July 16, 2013, the Court, in its discretion, found this case proper for
2 decision without oral argument.

3 It appearing that defendants, EZRA SAMPSON ORTEGA, an individual
4 and doing business as THE GENERAL FLOOR PREP & INSTALLATION
5 COMPANY, a partnership, and THE GENERAL FLOOR PREP &
6 INSTALLATION COMPANY, having been regularly served with process, and
7 having failed to plead or otherwise defend this action and default having been
8 entered; on application of the Board of Trustees Boards of Trustees of the Southern
9 California Floor Covering Pension Trust Fund, Southern California Floor Covering
10 Health and Welfare Trust Fund, Southern California Floor Covering
11 Apprenticeship and Training Trust Fund, Southern California Floor Covering
12 Vacation and Holiday Trust Fund; Contract Administration Trust Fund; Painters
13 and Allied Trades Labor Management Cooperation Fund (collectively, “Trust
14 Funds”), and the Resilient Floor and Decorative Floor Covering Local Union No.
15 1247 (“Union”) (collectively, “Plaintiffs” or “PLAINTIFFS”) to the Court and
16 after having considered the papers submitted in support thereof, and good cause
17 appearing therefore,

18 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED that**
19 **PLAINTIFFS have judgment in the total amount of \$117,515.14, as follows:**

20
21 AS TO PLAINTIFFS’ FIRST AND SECOND CLAIMS FOR RELIEF FOR
22 BREACH OF CONTRACT AND VIOLATION OF ERISA AGAINST EZRA
23 SAMPSON ORTEGA, an individual, and doing business as THE GENERAL
24 FLOOR PREP & INSTALLATION COMPANY, a partnership; and THE
25 GENERAL FLOOR PREP & INSTALLATION COMPANY, a partnership
26 (collectively, “DEFENDANT”) (CASE NO. CV-12-09106 DSF(AJWx)):

- 27 1. Unpaid fringe benefit contributions \$34,707.43
28 2. Liquidated Damages..... \$44,050.63

1 3. Interest Accrued through July 22, 2013 \$9,029.08
2 4. Attorney Fees \$29,728.00
3 **GRAND TOTAL..... \$117,515.14**

4 5. Plus costs of suit, which shall not include amounts
5 for electronic research, to be determined after entry of judgment.

6 6. Pursuant to 28 U.S.C. §1961(a), this judgment
7 shall bear interest at the rate of 0.11 % per annum.

8
9 AS TO PLAINTIFFS’ THIRD CLAIM FOR RELIEF FOR
10 DEFALCATION OF FIDUCIARY FOR THE MISAPPROPRIATION OF
11 VACATION FUNDS HELD IN FIDUCIARY CAPACITY AGAINST EZRA
12 SAMPSON ORTEGA, individually, (CASE NO. CV-12-09106 DSF(AJWx)):

13 1. Unpaid vacation fund contributions \$6,036.37
14 2. Interest through 7/22/13 \$212.80
15 **GRAND TOTAL \$6,249.17**

16 3. Pursuant to 28 U.S.C. §1961(a), this judgment
17 shall bear interest at the rate of 0.11 % per annum.

18
19 AS TO PLAINTIFFS’ FOURTH CLAIM FOR RELIEF FOR AN
20 ACCOUNTING AGAINST EZRA SAMPSON ORTEGA, an individual, and
21 doing business as THE GENERAL FLOOR PREP & INSTALLATION
22 COMPANY, a partnership; and THE GENERAL FLOOR PREP &
23 INSTALLATION COMPANY, a partnership (collectively, “DEFENDANT”)
24 (CASE NO. CV-12-09106 DSF(AJWx)):

25 DEFENDANT shall, within two (2) weeks after entry of judgment, provide
26 Plaintiffs with an accounting for the months of October 2012 to date, which shall
27 include the following information for each employee performing work covered by
28 the Master Labor Agreement:

- 1 (i) Name of each employee;
2 (ii) Social security numbers of each employee;
3 (iii) Hours compensated each employee; and
4 (iv) Fringe benefit contributions due for each employee.
5

6 AS TO PLAINTIFFS’ FIFTH CLAIM FOR RELIEF FOR INJUNCTIVE
7 RELIEF AGAINST EZRA SAMPSON ORTEGA, an individual, and doing
8 business as THE GENERAL FLOOR PREP & INSTALLATION COMPANY, a
9 partnership; and THE GENERAL FLOOR PREP & INSTALLATION
10 COMPANY, a partnership (collectively, “DEFENDANT”) (CASE NO. CV-12-
11 09106 DSF(AJWx)

12 PLAINTIFFS’ FIFTH CLAIM FOR RELIEF IS DENIED WITHOUT
13 PREJUDICE
14

15 AS TO PLAINTIFFS’ FIRST AND SECOND CLAIMS FOR RELIEF FOR
16 SPECIFIC PERFORMANCE FOR AUDIT AND FOR VIOLATION OF ERISA
17 AGAINST EZRA SAMPSON ORTEGA, an individual, and doing business as
18 THE GENERAL FLOOR PREP & INSTALLATION COMPANY, a partnership;
19 and THE GENERAL FLOOR PREP & INSTALLATION COMPANY, a
20 partnership (collectively, “DEFENDANT”) (CASE NO. CV13-01545 DSF(AJWx)):

21 1. DEFENDANT IS HEREBY ORDERED to do the following within
22 two (2) weeks after entry of judgment:

23 A. Make available to the Board of Trustees and the Trust Funds by
24 and through their auditors, all of the books and records concerning the
25 classification of the employees of DEFENDANT, their names, social security
26 numbers, the amount of wages paid to each, and the hours worked, including, but
27 not limited to payroll records, individual payroll ledgers, DE3s, DE6s, general
28 check disbursement records, canceled checks, check stub register, weekly time

1 cards or time tickets, federal income tax returns, California state quarterly tax
2 payroll returns, Forms 1099 and 1096, W-2s, W-3s and W-4s, all employee
3 earnings records, general ledgers, cash receipts, and cash disbursement journals,
4 workers' compensation reports, material invoices, copies of all construction
5 contracts and subcontracts awarded, copies of all certified payroll records, copies
6 of all bonds covering the work, including but not limited to payment and
7 performance bonds, and copies of any and all other books and records necessary to
8 determine the full amount of contributions owed to the Trust Funds for the period
9 of April 1, 2009 to the present date; and

10 B. Afford to the Trust Funds and their authorized representatives
11 both ample time and opportunity to examine all of Defendants' materials specified
12 above, without harassment, at such time and at such place as shall be convenient to
13 the authorized representative of the Trust Funds.

14 2. In the event that DEFENDANT cannot produce all of the records
15 which the Trust Funds are required to examine, DEFENDANT shall, within thirty
16 (30) days after entry of judgment for this case:

17 A. Apply to the Federal and State agencies with which
18 DEFENDANT previously filed periodic reports pertaining to employees for copies
19 of the reports to them for all of the periods for which DEFENDANT cannot
20 produce records; and

21 B. Subsequently make available to the Trust Funds all such copies
22 of DEFENDANT'S periodic reports to the federal and state agencies under the
23 conditions set forth in 1(B) above.



24 8/6/13

25 Dated: _____

26 HONORABLE DALE S. FISCHER
27 UNITED STATES DISTRICT JUDGE
28 CENTRAL DISTRICT OF CALIFORNIA